



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Extend Collection

3038-0052: Core Principles & Other Requirements for DCMs

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting requirements relating to collections of information related to designated contract markets (“DCMs”) under the Commission’s regulations.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by “OMB Control No. 3038-0052” by any of the following methods:

- The Agency’s website, at <https://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be

submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Roger Smith, Associate Chief Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; 202-418-5344; email: rsmith@cftc.gov.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the existing collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.¹

Title: Core Principles & Other Requirements for DCMs (OMB Control No. 3038-0052). This is a request for a revision and extension of a currently approved information collection.

Abstract: The regulations governing designated contract markets (“DCMs”) originally were adopted pursuant to the Commodity Futures Modernization Act of 2000,

¹The OMB control numbers for the CFTC regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981).

which amended section 5 of the Commodity Exchange Act (“CEA”) to impose requirements concerning the registration² and operation of DCMs.³ The DCM statutory framework subsequently was revised as a result of further amendments to the CEA under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”).⁴ Part 38 of the Commission’s regulations governs the activities of DCMs. The information collected pursuant to Part 38 is necessary for the Commission to evaluate whether entities operating as, or applying to become, DCMs comply with the Part 38 and other Commission requirements and the CEA’s statutory requirements.

Collection 3038-0052 was created in response to the Part 38 regulatory requirements for DCMs. In general, OMB Control Number 3038-0052 covers all information collections in Part 38, including Subpart A and the DCM core principles (*i.e.*, Subparts B through X) as well as the related appendices thereto (*i.e.*, Appendix A—Form DCM; Appendix B—Guidance on, and Acceptable Practices in, Compliance with Core Principles; and Appendix C—Demonstration of Compliance That a Contract Is Not Readily Susceptible to Manipulation). Further, this OMB control number, 3038-0052, also includes all information collections related to Part 9 (“Rules Relating to Review of Exchange Disciplinary, Access Denial or Other Adverse Actions”) to the extent Part 9 is applicable to DCMs.⁵ This collection also includes the requirements under regulation 38.251(g) in connection with the reporting of specific market disruption events to the Commission.

² The Commission notes that the terms “registered” and “designated” are used interchangeably and mean the same thing.

³ 7 U.S.C. 1 *et seq.*

⁴ See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, tit. VII, 124 Stat. 1376 (2010) (codified as amended in various sections of 7 U.S.C.), available at <https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2013-12242a.pdf>.

⁵ Section 38.707 specifically references Part 9. Accordingly, the Commission’s previous information collection estimates under Part 38 have included compliance with Part 9 to the extent applicable to DCMs. The Commission is referencing DCMs’ compliance obligations with Part 9 for the sake of clarity, but this does not represent a new or modified information collection.

This OMB control number, 3038-0052, also includes collections under regulation 1.52 regarding the Enhanced Protections Afforded Customer and Customer Funds Held by Futures Clearing Merchants and Derivatives Clearing Organizations. Commission regulation 1.52 imposes information collection burdens on DCMs.⁶

Additionally, this OMB control number, 3038-0052, also includes collections under regulation 38.1051(n) that relate to system safeguards and cybersecurity testing requirements and requires DCMs to provide the Commission with annual trading volume information.

For the majority of collections under OMB control number 3038-0052, the Commission notes that the number of registered, active DCMs has increased from 14 to 16. This increase in the number of registered DCMs will increase the total information collection burdens for OMB control number 3038-0052 as shown below.⁷

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and

⁶ The Commission notes that § 38.605 incorporates and references § 1.52. Accordingly, the Commission's previous information collection estimates under Part 38 have included compliance with § 1.52 to the extent applicable to DCMs. The Commission is referencing DCMs' compliance obligations with § 1.52 for the sake of clarity, but this does not represent a new or modified information collection.

⁷ For the collections related to Commission regulation 38.251(g), the Commission notes that the number of registered, active DCMs has decreased from 17 to 16. This decrease is reflected below for collections related to Commission regulation 38.251(g). However, despite this decrease, the total information collection burdens for OMB control number 3038-0052 will increase.

- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish for the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.⁸

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission is revising its estimate of the burden for this collection to reflect the current number of respondents and estimated burden hours. The respondent burden for this collection is estimated to be as follows:

- *Regulatory & Core Principle Compliance Part 38 (Subparts A-W) and related Appendices:*

Estimated Number of Respondents: 16.

Estimated Average Burden Hours Per Respondent: 330.

Estimated Total Annual Burden Hours: 5,280.

⁸ 17 CFR 145.9.

Frequency of Collection: Per Trading Day.

- *§ 1.52 (Examination Program and Audit of Program):*

Estimated Number of Respondents: 16.

Estimated Average Burden Hours Per Respondent: 49.

Estimated Total Annual Burden Hours: 784.

Frequency of Collection: Annually.

- *Core Principle 16 “Conflicts of Interest” and Related Acceptable Practices*

(Annual Assessment Report):

Estimated Number of Respondents: 16.

Estimated Average Burden Hours Per Respondent: 70.

Estimated Total Annual Burden Hours: 1,120.

Frequency of Collection: Annually.

- *§ 38.1101 et al (Quarterly Financial Reports):*

Estimated Number of Respondents: 16.

Estimated Average Burden Hours Per Respondent: 40.

Estimated Total Annual Burden Hours: 640.

Frequency of Collection: Quarterly.

- *§ 38.1051(n) (Required Production of Annual Trading Volume):*

Estimated Number of Respondents: 16.

Estimated Average Burden Hours Per Respondent: 0.5.

Estimated Total Annual Burden Hours: 8.

Frequency of Collection: Annually.

- *§ 38.3 and Form DCM (DCM Registration):*

Estimated Number of Respondents: 4.

Estimated Average Burden Hours Per Respondent: 300.

Estimated Total Annual Burden Hours: 1,200 hours.

Frequency of Collection: As applicable.

- § 38.251(g) (*Required Market Disruptions Notifications*):

Estimated Number of Respondents: 16.

Estimated Average Burden Hours Per Respondent: 66.4 hours.

Estimated Total Annual Burden Hours: 1,062.4 hours.

Frequency of Collection: As needed.

- §§ 38.950 and 38.951 (*Recordkeeping Related to Compliance with 38.251(g)*):

Estimated Number of Respondents: 16.

Estimated Average Burden Hours Per Respondent: 25 hours.

Estimated Total Annual Burden Hours: 400 hours.

Frequency of Collection: As needed.

- *Total Annual Burden for the Collection:* 10,494.4 hours

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: April 22, 2022.

Robert Sidman,

Deputy Secretary of the Commission.